

BEFORE THE IDAHO BOARD OF TAX APPEALS

IN THE MATTER OF THE APPEAL OF ELM STREET, LP) APPEAL NO. 06-A-2117
from the decision of the Board of Equalization of Bonner) FINAL DECISION
County for the tax year 2006.) AND ORDER

VACANT LAND APPEAL

NOTICE OF APPEAL was filed August 1, 2006, by Appellant. The appeal followed a timely protest to the Board of Equalization regarding the valuation for taxing purposes of property described as Parcel No. RPS0267002002TA. On appeal, Dan Tonnemacher represented Appellant and Assessor Jerry Clemons represented Bonner County. In order to timely advance the appeal, the Board of Tax Appeals (Board) ordered this appeal be heard on the written record of evidence and argument presented. The Board subsequently ordered all information and evidence to be considered be submitted by both parties. The Board now issues its decision based upon the documentary record.

The issue on appeal is the market value of a non-buildable parcel.

The decision of the Bonner Board of Equalization is modified.

FINDINGS OF FACT

The Assessor valued the subject parcel as follows: land \$547,592, improvement \$12,100, totaling \$559,692. On appeal, the Assessor recommends the Board adopt a parcel value of \$180,026 which together with the unadjusted improvement value of \$12,100 equals a total value of \$192,126. Appellant requests the land value be reduced to \$25,000, and the improvements' value be reduced to \$0, totaling \$25,000. In Appellant's final pleading the requested land value was reduced further to \$19,000.

The subject property is described by the Assessor as a non-buildable waterfront parcel with 102 feet of frontage on Lake Pend Oreille. Included in the assessment is a 700 square foot

boat dock and shore station, the improvements. The subject parcel was historically combined with an adjoining parcel (no. RPS02670010020A.) At the owner's request, the combined ownership was split in 2005 and the two new parcels were assessed separately in 2006. The subject parcel, when independently considered, is classified by the Assessor as an unbuildable picnic site with boat access. "Unbuildable" referring to limitations that prevent the development of a new residence.

In preparing for the subject appeal, the Assessor discovered what is maintained to be an error in the original assessment. A trending factor was applied to an erroneous base figure. Consequently, the Assessor representing Respondent Bonner County proposes the 2006 land value be adjusted to \$180,059.

The Assessor provided three sales considered non-buildable picnic sites with boatable access.

SALE DATE	SALE PRICE	FRONT FEET	PRICE PER FRONT FOOT	DISTANCE FROM SUBJECT
8/2006	\$375,000	100	\$7,018	3 miles NE
12/2004	\$130,000	110	\$1,745	1 mile SE
5/2005	\$ 90,000	66.2	\$1,849	20 miles SE

From these sales the Assessor estimated a land value of \$180,026. The Assessor noted a neighboring parcel was also erroneously assessed.

Appellant also describes subject as unbuildable, but with little or no value having a useful area above the high water line of about 2,000 square feet. Appellant noted the dock was 6 by 70 feet in size (420 square feet) and was the only improvement to subject. The remaining dock was characterized as not located on subject and having no value pursuant to an Army Corps of

Engineers agreement.

Appellant reported the subject lot was "legally sold in 2005, for \$19,000". It was claimed the three comparable sales submitted by Respondent could not be compared to subject. One was a 2006 sale, beyond the applicable January 1 lien date. Appellant maintained the other two sales were buildable, even though they were denied sewer hook-up or septic permits based on current development rules.

Where subject was sold in 2005 for \$19,000, Appellant asserts that is its market value.

CONCLUSIONS OF LAW

This Board's goal in its hearings is the acquisition of sufficient, accurate evidence to support a determination of fair market value. This Board, giving full opportunity for all arguments and having considered all testimony and documentary evidence submitted by the parties in support of their respective positions, hereby enters the following conclusions.

Idaho law requires all property not expressly exempt be assessed at market value. See Idaho Code §§ 63-201(10), 63-203, 63-205(1), 63-208(1), 63-301, and 63-314. A recognized valuation method for estimating the market value of land is the sales comparison approach. Market value is defined in Idaho Code § 63-201(10) as follows:

"Market value" means the amount of United States dollars or equivalent for which, in all probability, a property would exchange hands between a willing seller, under no compulsion to sell, and an informed, capable buyer, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment.

Both parties agreed, subject was a non-buildable parcel. Appellant asserts subject sold for \$19,000 in 2005. No documentation on the sale was offered for the Board to consider.

The Assessor proposed an adjusted value for subject and maintained the original assessment was in error. The Respondent included three sales and described them as non-

buildable picnic sites with boatable access. The first sale took place in 2006 for \$7,018 per front foot. This sale was outside the applicable time frame for the current assessment date. The closest sale was described as 110 feet of frontage located one mile southeast of subject. The third sale was located 20 mile southeast of subject with 66.2 front feet. The two sales ranged between \$1,745 and \$1,849 per front foot. Appellant did not agree the sales were comparable to subject but offered no alternatives but for the mentioned subject sale. As indicated, the information on the subject sale was very limited.

Under these circumstances, we find the Assessor's proposed value for the subject to be the best indicator of market value. Therefore the Board modifies the decision of the Bonner County Board of Equalization.

FINAL ORDER

In accordance with the foregoing Final Decision, IT IS ORDERED that the decision of the Bonner County Board of Equalization concerning the subject parcel be, and the same hereby is, modified reducing the land value to \$180,026, with no change to the improvements value at \$12,100, for a total parcel value of \$192,126.

IT IS FURTHER ORDERED that any taxes which have been paid in excess of those determined to have been due be refunded or applied against other *ad valorem* taxes due from Appellant.

DATED this 27th day of April 2007.